

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 957

Introduced by Assembly Member Wagner

February 22, 2013

An act to amend Section 129 of the Code of Civil Procedure, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 957, as amended, Wagner. Postmortem photographs.

Existing law prohibits making a copy, reproduction, or facsimile of a photograph, negative, or print of the body of a deceased person taken by, or for, the coroner at the scene of death, or in the course of a post mortem examination or autopsy, except for use in a criminal proceeding that relates to the death of that person or by order of the court for good cause, as specified. This provision does not apply to making a copy, reproduction, or facsimile for use in the field of forensic pathology, in medical or scientific education or research, or by any law enforcement agency.

This bill would additionally ~~permit a copy, reproduction, or facsimile to be made for deposition discovery in arbitration proceedings, as specified.~~ *prohibit the dissemination of a copy, reproduction, or facsimile described above, except as provided.* The bill would exclude from application of this provision the making or dissemination of a copy, reproduction, or facsimile for use in the field of forensic pathology, in medical or scientific education or research, and by a coroner or any law enforcement agency for investigative purposes ~~or, including identification and~~ identification confirmation. The bill would provide that a coroner is not *personally* liable for monetary damages

in a civil action for any act, or failure to act, in compliance with these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 129 of the Code of Civil Procedure is
2 amended to read:

3 129. (a) Notwithstanding any other law, ~~no a copy,~~
4 reproduction, or facsimile of any kind ~~shall be made~~ of a
5 photograph, negative, or print, including instant photographs and
6 video recordings, of the body, or any portion of the body, of a
7 deceased person, taken by or for the coroner at the scene of death
8 or in the course of a post mortem examination or autopsy, *shall*
9 *not be made or disseminated* except as follows:

10 (1) For use in a criminal action or proceeding in this state that
11 relates to the death of that person.

12 (2) As a court of this state permits, by order after good cause
13 has been shown and after written notification of the request for
14 the court order has been served, at least five days before the order
15 is made, upon the district attorney of the county in which the post
16 mortem examination or autopsy has been made *or caused to be*
17 *made*.

18 ~~(3) For deposition discovery in arbitration proceedings pursuant~~
19 ~~to Section 1283.05.~~

20 (b) This section shall not apply to the making or dissemination
21 of a copy, reproduction, or facsimile for use in the field of forensic
22 pathology, in medical or scientific education or research, or by a
23 coroner or any law enforcement agency in the United States for
24 investigative purposes ~~or, including identification and~~ identification
25 confirmation.

26 (c) This section shall apply to a copy, reproduction, or facsimile,
27 and to a photograph, negative, or print, regardless of when it was
28 made.

29 (d) A coroner is not *personally* liable for monetary damages in
30 a civil action for any act, or failure to act, in compliance with this
31 section.

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